

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNITED STATES OF AMERICA

v.

MARCUS HENDERSON

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CRIMINAL NO. 6:06CR85

**REPORT & RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

On August 23, 2013, the Court conducted a hearing to consider the government's petition to revoke the supervised release of Defendant Marcus Henderson. The government was represented by Richard Moore, Assistant United States Attorney for the Eastern District of Texas, and Defendant was represented by Wayne Dickey.

Pursuant to a written Plea Agreement, Defendant pled guilty to the offense of Conspiracy to Possess with Intent to Distribute Methamphetamine, a Class A felony. The offense carried a statutory maximum imprisonment term of life. The United States Sentencing Guideline range, based on a total offense level of 27 and a criminal history category of I, was 70 to 87 months. On August 14, 2007, Chief District Judge Leonard Davis sentenced Defendant to 56 months imprisonment followed by 5 years of supervised release subject to the standard conditions of release, plus special conditions to include substance abuse treatment and the submission of financial information to his probation officer as requested. Defendant completed the term of imprisonment and began his term of supervised release in the Eastern District of Texas on March 17, 2011.

Under the terms of supervised release, Defendant was prohibited from using any unlawful controlled substance. In its petition, the government alleges that Defendant violated his term of supervised release when he submitted urine specimens testing positive for marijuana on

June 16, 2011 and January 18, 2012, as well as a sample testing positive for marijuana and cocaine on January 6, 2012. Additionally, Defendant admitted to marijuana use on or about November 30, 2011.

If the Court finds by a preponderance of the evidence that Defendant violated the conditions of supervised release by using an unlawful substance, Defendant will have committed a Grade C violation. U.S.S.G. § 7B1.1(a). Upon a finding of a Grade C violation, the Court may revoke probation or supervised release or extend the term of supervised release and/or modify conditions of supervision. U.S.S.G. § 7B1.3(a)(2). Considering Defendant's criminal history category of I, the Guideline imprisonment range for a Grade C violation is 3 to 9 months. U.S.S.G. § 7B1.4(a).

At the hearing, Defendant pled true to the allegations set forth above. The government recommended 7 months imprisonment, with no supervised release to follow.

Pursuant to the Sentencing Reform Act of 1984, the Court **RECOMMENDS** that Defendant Marcus Henderson be committed to the custody of the Bureau of Prisons for a term of imprisonment of 7 months, with no supervised release to follow. The Court recommends the Defendant's place of confinement in Texarkana, Texas.

Defendant has waived his right to object to the findings of the Magistrate Judge in this matter so the Court will present this Report and Recommendation to District Judge Leonard Davis for adoption immediately upon issuance.

So ORDERED and SIGNED this 27th day of August, 2013.


JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE